
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

UNITED STATES OF AMERICA

§

versus

§

CASE NO. 4:16-CR-101(12)

ROBIN TERRY

§
§
§

MEMORANDUM AND ORDER

Pending before the court is Defendant Robin Terry’s (“Terry”) Application to Proceed *In Forma Pauperis* (#726). On January 11, 2021, the court denied Terry’s Motion to Compel the United States to File a Rule 35(b) Motion to Reduce Sentence (#721). On January 22, 2021, she filed a notice of appeal, which is pending before the United States Court of Appeals for the Fifth Circuit, No. 21-40072. In her present motion, Terry requests that the court allow her to appeal *in forma pauperis* (“IFP”). Having considered the motion, the record, and the applicable law, the court is of the opinion that the motion should be denied.

Under certain circumstances, the court may grant a party leave to proceed on appeal without prepaying or giving security for fees and costs. *See* 28 U.S.C. § 1915(a); FED. R. APP. P. 24(a). To proceed IFP, a party must submit an affidavit that includes a statement of all assets she possesses demonstrating her inability to prepay or give security for fees and that states the nature of the appeal and the affiant’s belief that she is entitled to redress. 28 U.S.C. § 1915(a)(1). A prisoner who seeks to proceed IFP must also submit a certified copy of her trust fund account statement or institutional equivalent for the 6-month period immediately preceding the filing of the notice of appeal. *Id.* § 1915(a)(2). If granted leave to proceed IFP, a prisoner is still obligated to pay the full amount of the filing fee over time, when funds exist, through an initial partial filing fee and monthly installments withdrawn from the prisoner’s account. *Id.* § 1915(b)(1), (2); *Hawes*

v. Stephens, 964 F.3d 412, 417 (5th Cir. 2020). A prisoner may proceed IFP on appeal only if she is economically eligible and presents a nonfrivolous issue. *Carson v. Polley*, 689 F.2d 562, 586 (5th Cir. 1982); *accord United States v. Rutherford*, 831 F. App'x 713, 714 (5th Cir. 2020). An issue is not frivolous if it involves “legal points arguable on their merits.” *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983); *accord United States v. Castillo-Chavez*, 828 F. App'x 207, 207 (5th Cir. 2020).

Terry has not provided the court with a *certified copy* of her trust fund account statement or institutional equivalent. Moreover, she does not present a nonfrivolous issue for appeal. Thus, Terry has not met the requirements to proceed IFP. In accordance with the foregoing, Terry’s Application to Proceed *In Forma Pauperis* (#726) is DENIED.

SIGNED at Beaumont, Texas, this 8th day of March, 2021.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE